

Senate Bill No. 937

Passed the Senate August 22, 2012

Secretary of the Senate

Passed the Assembly August 20, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 494.5, 23083.5, 23393.5, 23396.6, 23800, 23817.5, 23958.4, 24045.11, 24300, 25503.29, 25503.37, and 25503.42 of, to repeal Sections 24016 and 24210 of, and to repeal and add Sections 23320 and 24079 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 937, Committee on Governmental Organization. Alcoholic beverages.

(1) The Alcoholic Beverage Control Act requires the Alcoholic Beverage Control Appeals Board to establish a surcharge of up to 3 percent of the annual license fees imposed under the act to pay for the board's administrative costs.

This bill would provide that the Department of Alcoholic Beverage Control is required to collect a surcharge of 3 percent of the annual license fees for the Alcoholic Beverage Control Appeals Board's administrative costs.

(2) The Alcoholic Beverage Control Act provides for the issuance of licenses for which various annual fees are charged depending upon the type of license issued. That law authorizes an annual adjustment of the fees, as provided, commencing with the 2010 calendar year.

This bill would revise the license fee schedule to set forth the fee amounts as of the 2010 calendar year.

(3) Existing law requires a retail off-sale beer and wine replacement license to be issued upon application when specified conditions exist.

This bill would instead authorize a retail off-sale beer and wine replacement license to be issued under specified circumstances. This bill would also prohibit the issuance of a replacement license under specified circumstances.

(4) The Alcoholic Beverage Control Act prohibits the transfer of an original on-sale or off-sale general license for one year if a fee in excess of \$12,000 has been paid and for 2 years if a fee of \$12,000 has been paid.

This bill would revise the provision to prohibit the transfer of an original on-sale or off-sale license for more than the original purchase price for a period of 2 years.

(5) This bill would also make technical and conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 494.5 of the Business and Professions Code is amended to read:

494.5. (a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee's name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee's name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

(3) The State Bar of California may recommend to refuse to issue, reactivate, reinstate, or renew a license and may recommend to suspend a license if a licensee's name is included on a certified list. The word "may" shall be substituted for the word "shall" relating to the issuance of a temporary license, refusal to issue, reactivate, reinstate, renew, or suspend a license in this section for licenses under the jurisdiction of the California Supreme Court.

(4) The Department of Alcoholic Beverage Control may refuse to issue, reactivate, reinstate, or renew a license, and may suspend a license, if a licensee's name is included on a certified list.

(b) For purposes of this section:

(1) "Certified list" means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(2) "License" includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. "License" includes a driver's license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code. "License" excludes a

vehicle registration issued pursuant to Division 3 (commencing with Section 4000) of the Vehicle Code.

(3) “Licensee” means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) “State governmental licensing entity” means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol. “State governmental licensing entity” shall not include the Contractors’ State License Board.

(c) The State Board of Equalization and the Franchise Tax Board shall each submit its respective certified list to every state governmental licensing entity. The certified lists shall include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified lists.

(d) Notwithstanding any other law, each state governmental licensing entity shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified lists provided by the State Board of Equalization and the Franchise Tax Board to applicants and licensees.

(e) (1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list provided by the State Board of Equalization and the Franchise Tax Board.

(2) If an applicant or licensee is on either of the certified lists, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or licensee of the entity’s intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant’s or licensee’s last known mailing address on file with the state governmental licensing entity within 30 days of

receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the state governmental licensing entity.

(f) (1) A state governmental licensing entity shall refuse to issue or shall suspend a license pursuant to this section no sooner than 90 days and no later than 120 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e), unless the state governmental licensing entity has received a release pursuant to subdivision (h). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial or suspension of, or refusal to renew, a license or the issuance of a temporary license pursuant to this section.

(2) Notwithstanding any other law, if a board, bureau, or commission listed in Section 101, other than the Contractors' State License Board, fails to take action in accordance with this section, the Department of Consumer Affairs shall issue a temporary license or suspend or refuse to issue, reactivate, reinstate, or renew a license, as appropriate.

(g) Notices shall be developed by each state governmental licensing entity. For an applicant or licensee on the State Board of Equalization's certified list, the notice shall include the address and telephone number of the State Board of Equalization, and shall emphasize the necessity of obtaining a release from the State Board of Equalization as a condition for the issuance, renewal, or

continued valid status of a license or licenses. For an applicant or licensee on the Franchise Tax Board's certified list, the notice shall include the address and telephone number of the Franchise Tax Board, and shall emphasize the necessity of obtaining a release from the Franchise Tax Board as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) The notice shall inform the applicant that the state governmental licensing entity shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 90 calendar days if the applicant is otherwise eligible and that upon expiration of that time period, the license will be denied unless the state governmental licensing entity has received a release from the State Board of Equalization or the Franchise Tax Board, whichever is applicable.

(2) The notice shall inform the licensee that any license suspended under this section will remain suspended until the state governmental licensing entity receives a release along with applications and fees, if applicable, to reinstate the license.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of his or her name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, where the applicant or licensee is unable to pay any part of the outstanding liability and the applicant or licensee is unable to qualify for an installment payment arrangement as provided for by Section 6832 or Section 19008 of the Revenue and Taxation Code. In order to establish the existence of a financial hardship, the applicant or licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, for purposes of making that determination.

(i) An applicant or licensee is required to act with diligence in responding to notices from the state governmental licensing entity and the State Board of Equalization or the Franchise Tax Board with the recognition that the temporary license will lapse or the license suspension will go into effect after 90 days and that the State Board of Equalization or the Franchise Tax Board must have time to act within that period. An applicant's or licensee's delay in acting, without good cause, which directly results in the inability of the State Board of Equalization or the Franchise Tax Board, whichever is applicable, to complete a review of the applicant's or licensee's request for release shall not constitute the diligence

required under this section which would justify the issuance of a release. An applicant or licensee shall have the burden of establishing that he or she diligently responded to notices from the state governmental licensing entity or the State Board of Equalization or the Franchise Tax Board and that any delay was not without good cause.

(j) The State Board of Equalization or the Franchise Tax Board shall create release forms for use pursuant to this section. When the applicant or licensee has complied with the tax obligation by payment of the unpaid taxes, or entry into an installment payment agreement, or establishing the existence of a current financial hardship as defined in paragraph (3) of subdivision (h), the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall mail a release form to the applicant or licensee and provide a release to the appropriate state governmental licensing entity. Any state governmental licensing entity that has received a release from the State Board of Equalization and the Franchise Tax Board pursuant to this subdivision shall process the release within five business days of its receipt. If the State Board of Equalization or the Franchise Tax Board determines subsequent to the issuance of a release that the licensee has not complied with their installment payment agreement, the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall notify the state governmental licensing entity and the licensee in a format prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee is not in compliance and the release shall be rescinded. The State Board of Equalization and the Franchise Tax Board may, when it is economically feasible for the state governmental licensing entity to develop an automated process for complying with this subdivision, notify the state governmental licensing entity in a manner prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee has not complied with the installment payment agreement. Upon receipt of this notice, the state governmental licensing entity shall immediately notify the licensee on a form prescribed by the state governmental licensing entity that the licensee's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The licensee shall be

further notified that the license will remain suspended until a new release is issued in accordance with this subdivision.

(k) The State Board of Equalization and the Franchise Tax Board may enter into interagency agreements with the state governmental licensing entities necessary to implement this section.

(l) Notwithstanding any other law, a state governmental licensing entity, with the approval of the appropriate department director or governing body, may impose a fee on a licensee whose license has been suspended pursuant to this section. The fee shall not exceed the amount necessary for the state governmental licensing entity to cover its costs in carrying out the provisions of this section. Fees imposed pursuant to this section shall be deposited in the fund in which other fees imposed by the state governmental licensing entity are deposited and shall be available to that entity upon appropriation in the annual Budget Act.

(m) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section.

(n) Any state governmental licensing entity receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or who has been granted a temporary license under this section shall respond that the license was denied or suspended or the temporary license was issued only because the licensee appeared on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Any state governmental licensing entity that discloses on its Internet Web site or other publication that the licensee has had a license denied or suspended under this section or has been granted a temporary license under this section shall prominently disclose, in bold and adjacent to the information regarding the status of the license, that the only reason the license was denied, suspended, or temporarily issued is because the licensee failed to pay taxes.

(o) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as

emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(p) The State Board of Equalization, the Franchise Tax Board, and state governmental licensing entities, as appropriate, shall adopt regulations as necessary to implement this section.

(q) (1) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the State Board of Equalization or the Franchise Tax Board, pursuant to this section, except to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to this section. The release or other use of information received by a state governmental licensing entity pursuant to this section, except as authorized by this section, is punishable as a misdemeanor. This subdivision may not be interpreted to prevent the State Bar of California from filing a request with the Supreme Court of California to suspend a member of the bar pursuant to this section.

(2) A suspension of, or refusal to renew, a license or issuance of a temporary license pursuant to this section does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.

(3) Upon release from the certified list, the suspension or revocation of the applicant's or licensee's license shall be purged from the state governmental licensing entity's Internet Web site or other publication within three business days. This paragraph shall not apply to the State Bar of California.

(r) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(s) All rights to review afforded by this section to an applicant shall also be afforded to a licensee.

(t) Unless otherwise provided in this section, the policies, practices, and procedures of a state governmental licensing entity with respect to license suspensions under this section shall be the same as those applicable with respect to suspensions pursuant to Section 17520 of the Family Code.

(u) No provision of this section shall be interpreted to allow a court to review and prevent the collection of taxes prior to the payment of those taxes in violation of the California Constitution.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

SEC. 2. Section 23083.5 of the Business and Professions Code is amended to read:

23083.5. (a) The department shall collect a 3-percent surcharge on the annual fees provided for in Section 23320 on behalf of the appeals board at the same time the department makes its regular collections of annual fees pursuant to Section 23320. The surcharge shall be rounded to the nearest whole dollar and pay the costs of the appeals board in carrying out its duties.

(b) All surcharges collected by the department on behalf of the appeals board pursuant to this section shall be deposited in the Alcoholic Beverage Control Appeals Fund, which is hereby created. All moneys in the Alcoholic Beverage Control Appeals Fund shall be available to the appeals board, upon appropriation by the Legislature, to pay the actual costs of the appeals board in carrying out its duties under this chapter.

SEC. 3. Section 23320 of the Business and Professions Code is repealed.

SEC. 4. Section 23320 is added to the Business and Professions Code, to read:

23320. (a) The following are the types of licenses and the annual fees to be charged therefor:

Name & License Type Number:	Fee Effective 01/01/10
(1) Beer manufacturer:	

(a) Beer manufacturers that produce 60,000 barrels or less a year (Type 23).....	\$161.00
(b) All other beer manufacturers (Type 1).....	\$1334.00
(c) Branch Office —Small Beer Manufacturers (Type 23D).....	\$85.00
—Beer Manufacturers (Type 1D).....	\$85.00
(2) Winegrower or wine blender (to be computed only on the gallonage produced or blended) (Type 2 & Type 22): —5,000 gallons or less.....	\$62.00
—Over 5,000 gallons to 20,000 gallons per year.....	\$115.00
—Over 20,000 to 100,000 gallons per year.....	\$208.00
—Over 100,000 to 200,000 gallons per year.....	\$274.00
—Over 200,000 gallons to 1,000,000 gallons per year.....	\$406.00
—For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional.....	\$265.00
Winegrower (Branch Office) - (Type 2D).....	\$85.00
(3) Brandy manufacturer	

(Type 3)..... Brandy manufacturer (Branch Office) (Type 3D).....	\$271.00 \$248.00
(4) Distilled spirits manufacturer (Type 4).....	\$444.00
(5) Distilled spirits manufacturer's agent (Type 5).....	\$444.00
(5a) California winegrower's agent (Type 27).....	\$444.00
(6) Still (Type 6).....	\$67.00
(7) Rectifier (Type 7).....	\$444.00
(7a) Distilled spirits rectifier's general license (Type 24).....	\$444.00
(8) Wine rectifier (Type 8).....	\$444.00
(9) Beer & wine importer (Type 9).....	\$67.00
(10) Beer & wine importer's general license (Type 10)	\$296.00
(11) Brandy importer (Type 11).....	\$67.00
(12) Distilled spirits importer (Type 12).....	\$67.00
(13) Distilled spirits importer's general license (Type 13).....	\$444.00
(14) Public warehouse (Type 14).....	\$67.00
(15) Customs broker (Type 15).....	\$67.00
(16) Wine broker (Type 16).....	\$90.00
(17) Beer & wine wholesaler (Type 17).....	\$296.00
(18) Distilled spirits wholesaler (Type 18).....	\$444.00
(18a) California brandy	

wholesaler (Type 25).....	\$444.00
(19) Industrial alcohol dealer (Type 19).....	\$90.00
(20) Retail package off-sale beer & wine (Type 20).....	\$242.00
(21) Retail package off-sale general license (Type 21) and controlled access cabinet permit (Type 66).....	\$537.00
(22) On-sale beer (Type 40 & Type 61); On-sale beer & wine (Type 42); Special on-sale beer & wine (Theater) (Type 69); and Special on-sale beer & wine (Symphony) cabinet permit (Type 66).....	\$248.00
(23) On-sale beer & wine eating place (Type 41).....	\$335.00
(24) On-sale beer & wine license for trains (per train) (Type 43).....	\$100.00
(25) On-sale beer license for fishing party boats (per boat) (Type 44).....	\$100.00
(26) On-sale beer & wine license for boats (per boat) (Type 45).....	\$100.00
(27) On-sale beer & wine license for airplanes (per scheduled flight) (Type 46).....	\$100.00
(28) On-sale general license (Types 47, 48, 57, 70, 75, 78, 78D (for 78D see Section 23396.2)) and club caterer's permit (Type 58): —In cities of 40,000	

population or over.....	\$846.00
—In cities of less than 40,000 but more than 20,000 population.....	\$620.00
—In all other localities.....	\$551.00
Duplicate on-sale general license (Types 47D, 48D, 57D) and portable bar license (Type 68): —In cities of 40,000 population or over.....	\$609.00
—In cities of less than 40,000 but more than 20,000 population.....	\$360.00
—In all other localities.....	\$284.00
(29) On-sale general license for seasonal business (Type 49): —In cities of 40,000 population or over (per quarter).....	\$215.00
—In cities of less than 40,000 but more than 20,000 population (per quarter).....	\$153.00
—In all other localities (per quarter).....	\$134.00
Duplicate on-sale general license for seasonal business (Type 49D): —In cities of 40,000 population or over (per quarter).....	\$153.00
—In cities of less than 40,000 but more than	

20,000 population (per quarter).....	\$90.00
—In all other localities (per quarter).....	\$71.00
(30) (a) On-sale general license for bona fide clubs, (b) Club license (issued under Article 4 of this chapter), or (c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter) (Types 50, 51, 52, & 64):	
—In cities of 40,000 population or over.....	\$488.00
—In cities of less than 40,000 but more than 20,000 population.....	\$366.00
—In all other localities.....	\$325.00
(31) On-sale general license for trains and sleeping cars (Type 53).....	\$189.00
—Duplicate on-sale general license for trains and sleeping car companies (Type 53D).....	\$67.00
(32) On-sale general license for boats (Type 54).....	\$491.00
(33) On-sale general license for airplanes (Type 55).....	\$491.00
—Duplicate on-sale general license for air common carriers (Type 55D).....	\$67.00
(34) On-sale general license	

for vessels of more than 1,000 tons burden (Type 56) and for Maritime Museum (Type 76).....	\$189.00
—Duplicate on-sale general license for vessels of more than 1,000 tons burden (Type 56D) and for Maritime Museum (Type 76D).....	\$67.00
(35) On-sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement (Type 62).....	\$531.00
(36) On-sale special beer & wine license for hospitals, convalescent homes, and rest homes (Type 63).....	\$83.00
(37) On-sale beer & wine seasonal (Type 59) and on-sale beer seasonal (Type 60)	
—Operating period 3-9 months.....	\$208.00
—Operating period 3-6 months.....	\$141.00

(b) Beginning January 1, 2013, and each January 1 thereafter, the department may adjust each of the fees specified in this section by increasing each fee by an amount not to exceed the percentage that the Consumer Price Index (United States Bureau of Labor Statistics, West Region, All Urban Consumers, All Items, Base Period 1982-84 =100) for the preceding April 2011, and each April annually thereafter, has increased under the same index over the month of April 2010, which shall be the base period. No fee shall be decreased pursuant to this adjustment below the fee currently

in effect on each December 31. In the event that this index is discontinued, the department shall consult with the Department of Finance to convert the increase calculations to an index then available. When approved by the Department of Finance, the new index shall replace the discontinued index.

(c) The department shall calculate the percentage increase as specified in subdivision (b) and shall apply this increase to each fee. The increase to each fee shall be rounded to the nearest whole dollar. The adjusted fee list shall be published by the department and transmitted to the Legislature for approval as part of the department's budget submission for the fiscal year in which the adjusted fees would be implemented. This adjustment of fees and publication of the adjusted fee list is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 23393.5 of the Business and Professions Code is amended to read:

23393.5. (a) The department may issue a limited off-sale retail wine license which authorizes the sale of wine by the licensee if all of the following conditions are met:

(1) Sales are restricted to those solicited and accepted via direct mail, telephone, or the Internet.

(2) Sales are not conducted from a retail premises open to the public.

(3) The licensee takes possession of and title to all wine sold by the licensee.

(4) All wine sold by the licensee is delivered to the purchaser from the licensee's licensed premises or from a licensed public warehouse.

(b) The sale of wine shall only be to consumers and not for resale, in packages or quantities of 52 gallons or less per sale, for consumption off the premises where sold.

(c) The licensee shall comply with Section 23985, but is exempted from Sections 23985.5 and 23986.

(d) The department may impose reasonable conditions upon the licensee as may be needed in the interest of public health, safety, and welfare.

(e) The application for the license shall be accompanied by an original fee in an amount equivalent to that of an original off-sale beer and wine license pursuant to Section 23954.5. The annual fee

for the license shall be an amount equivalent to that of a retail package off-sale beer and wine license pursuant to Section 23320. All moneys collected from the fees shall be deposited in the Alcohol Beverage Control Fund, pursuant to Section 25761.

SEC. 6. Section 23396.6 of the Business and Professions Code is amended to read:

23396.6. (a) The department may issue to the holder of an off-sale retail license an instructional tasting license at the premises of the off-sale retail license. An instructional tasting license shall not be issued to any of the following:

(1) Off-sale licensees at locations where motor vehicle fuel is sold, unless the licensee operates a fully enclosed off-sale retail area encompassing at least 10,000 square feet.

(2) Off-sale licensees at locations with a total of less than 5,000 square feet of interior retail space, unless the calendar quarterly gross sales of alcoholic beverages at the licensed location comprise at least 75 percent of the total gross sales of all products sold at the licensed premises. A licensee that is issued an instructional tasting license pursuant to this paragraph shall maintain records that separately reflect the gross sales of alcoholic beverages and the gross sales of all other products sold on the licensed premises.

(b) The provisions of Article 2 (commencing with Section 23815) of Chapter 5 and Section 23958.4 shall not apply to the issuance of an instructional tasting license, except that the department may expressly deny the issuance of an instructional tasting license for any premises located in an area of undue concentration of licenses as defined in paragraph (1) of subdivision (a) of Section 23958.4. Notwithstanding paragraph (3) of subdivision (c), the provisions of Article 2 (commencing with Section 23985) and Article 3 (commencing with Section 24011) of Chapter 6 shall apply to the issuance of an instructional tasting license.

(c) Notwithstanding subdivision (a) of Section 23386 and paragraph (3) of subdivision (c) of Section 25612.5, an instructional tasting license authorizes the licensee to allow an authorized licensee or the designated representative of an authorized licensee, to conduct an instructional tasting event at which tastes of alcoholic beverages may be served to consumers subject to the following limitations, and the limitations set forth in Section 25503.56:

(1) (A) At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the off-sale licensed premises by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier. The licenseholder shall prominently display signage prohibiting persons under 21 years of age from entering the instructional tasting event area.

(B) A licenseholder that permits a person under 21 years of age to enter and remain in the instructional tasting event area during an instructional tasting event is guilty of a misdemeanor. Any person under 21 years of age who enters and remains in the instructional tasting event area during an instructional tasting event is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200), no part of which shall be suspended.

(C) The licenseholder shall not permit any consumer to leave the instructional tasting area with an open container of alcohol.

(2) The instructional tasting license shall not authorize the licenseholder to conduct any on-sale retail sales to consumers attending the instructional tasting event.

(3) Unless otherwise restricted, an instructional tasting event may take place between the hours of 10 a.m. and 9 p.m.

(d) Unless the context otherwise requires, the definitions set forth in Section 25503.56 govern the construction of this section.

(e) An applicant for an instructional tasting license under this section shall, at the time of filing the application for the license, accompany the application with a fee of three hundred dollars (\$300). The annual renewal fee for a license issued pursuant to this section shall be two hundred sixty-one dollars (\$261) and shall be subject to subdivisions (b) and (c) of Section 23320. Fees collected pursuant to this section shall be deposited in the Alcohol Beverage Control Fund.

SEC. 7. Section 23800 of the Business and Professions Code is amended to read:

23800. The department may place reasonable conditions upon retail licensees or upon any licensee in the exercise of retail privileges in the following situations:

(a) If grounds exist for the denial of an application for a license or where a protest against the issuance of a license is filed and if

the department finds that those grounds may be removed by the imposition of those conditions.

(b) Where findings are made by the department which would justify a suspension or revocation of a license, and where the imposition of a condition is reasonably related to those findings. In the case of a suspension, the conditions may be in lieu of or in addition to the suspension.

(c) Where the department issues an order suspending or revoking only a portion of the privileges to be exercised under the license.

(d) Where findings are made by the department that the licensee has failed to correct objectionable conditions within a reasonable time after receipt of notice to make corrections given pursuant to subdivision (e) of Section 24200, or subdivision (a) or (b) of Section 24200.1.

(e) (1) At the time of transfer of a license pursuant to Section 24070, 24071.1, or 24071.2, and upon written notice to the licensee, the department may adopt conditions that the department determines are reasonable pursuant to its investigation or that are requested by the local governing body, or its designated subordinate officer or agency, in whose jurisdiction the license is located. The request for conditions shall be supported by substantial evidence that the problems either on the premises or in the immediate vicinity identified by the local governing body or its designated subordinate officer or agency will be mitigated by the conditions. Upon receipt of the request for conditions, the department shall either adopt the conditions requested or notify the local governing body, or its designated subordinate officer or agency, in writing of its determination that there is not substantial evidence that the problem exists or that the conditions would not mitigate the problems identified. The department may adopt conditions only when the request is filed. Any request for conditions from the local governing body or its designated subordinate officer or agency pursuant to this provision shall be filed with the department within the time authorized for a local law enforcement agency to file a protest or proposed conditions pursuant to Section 23987.

(2) If the license to be transferred subject to paragraph (1) is located in an area of undue concentration as defined in Section 23958.4, the period within which the local governing body or its designated subordinate officer or agency may submit a written request for conditions shall be 40 days after the mailing of the

notices required by Section 23987. For purposes of this provision only, undue concentration shall be established when the requirements of both paragraph (1) of subdivision (a) and either paragraph (2) or paragraph (3) of subdivision (a) of Section 23958.4 exist. Pursuant to Section 23987, the department may extend the 40-day period for a period not to exceed an additional 20 days upon the written request of any local law enforcement agency or local government entity with jurisdiction. Nothing in this paragraph is intended to reduce the burden of the local governing body or its designated subordinate officer or agency to support any request for conditions as required by paragraph (1). Notwithstanding Section 23987, the department may not transfer any license subject to this paragraph until after the time period permitted to request conditions as specified in this paragraph.

(f) At the time of a transfer of a license pursuant to Article 5 (commencing with Section 24070) of Chapter 6.

SEC. 8. Section 23817.5 of the Business and Professions Code is amended to read:

23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.

(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.

(b) (1) Notwithstanding subdivision (a), a retail off-sale beer and wine replacement license may be issued at a premises that was operated under an existing off-sale beer and wine license no less than 90 days prior to the date of application for the replacement license, provided that the existing licensee is subject to a bankruptcy proceeding and the existing licensee has no right to operate at the premises, or has abandoned the premises of that license.

(2) A replacement license shall not be issued if the existing license has been, or is in the process of being, transferred, or if the existing license has been canceled by the licensee or surrendered by the licensee pursuant to department rule.

(3) An application for a replacement license shall be accompanied by a fee of one hundred dollars (\$100) and all conditions imposed upon the existing off-sale beer and wine license at the premises shall be imposed upon the replacement license.

(4) Upon issuance of the replacement license, the off-sale beer and wine license existing at the premises shall be canceled by operation of law. A replacement license shall not be transferred to another premises.

SEC. 9. Section 23958.4 of the Business and Professions Code is amended to read:

23958.4. (a) For purposes of Section 23958, “undue concentration” means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of

off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all

arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(3) “Population within the census tract or census division” means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) “Population in the county” shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) “Retail licenses” shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A “premises to premises transfer” refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be established by the department on an annual basis.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued prior to April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.

SEC. 10. Section 24016 of the Business and Professions Code is repealed.

SEC. 11. Section 24045.11 of the Business and Professions Code is amended to read:

24045.11. The department may issue a special on-sale wine license to an establishment licensed to do business as a bed and breakfast inn.

“Bed and breakfast inn,” as used in this section, means an establishment of 20 guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. For purposes of this section, “bed and breakfast inn” refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the owner or operator is immaterial.

An establishment holding a license under this section is authorized to serve wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment. Wine shall not be given away to guests but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Guests shall not be permitted to remove wine served in the establishment from the grounds.

The applicant for a license shall accompany the application with an original fee of fifty dollars (\$50) and shall pay an annual renewal fee of six dollars (\$6) for each guestroom in the establishment until December 31, 2004, and for each year thereafter the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

SEC. 12. Section 24079 of the Business and Professions Code is repealed.

SEC. 13. Section 24079 is added to the Business and Professions Code, to read:

24079. (a) An on-sale general license or off-sale general license shall not be transferred for a purchase price or consideration in excess of the original fee paid for that license pursuant to subdivision (b) of Section 23954.4 for a period of two years following the original issuance of that license.

(b) On and after the two-year period following the original issuance of an on-sale general license or off-sale general license, there shall not be a restriction as to the purchase price or consideration paid by a transferee or received by a transferor for an on-sale general license or off-sale general license.

SEC. 14. Section 24210 of the Business and Professions Code is repealed.

SEC. 15. Section 24300 of the Business and Professions Code is amended to read:

24300. (a) Any hearings held on a protest, accusation, or petition for a license shall be held in the county in which the premises or licensee is located; provided, that hearings before the department itself on reconsideration or under subdivision (c) of Section 11517 of the Government Code may be held at any place in the state where the department is meeting. Except as provided in Section 24203 and in this section, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the department shall have all the powers granted therein. The department, in its exclusive discretion, shall consider scheduling the hearing at a time, including evening hours, and at a place convenient to all parties to a proceeding, including those witnesses required to be present, and the public affected.

(b) Notwithstanding the provisions of subdivision (a), if a protest is filed against an application for a license and the proposed premises are located within a city, the department may, in its discretion, hold the hearing within that city, unless the protest is filed by the governing body of the city, in which case the department shall hold the hearing within that city.

(c) For any hearing held pursuant to this division, the department may delegate the power to hear and decide to an administrative law judge appointed by the director. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 16. Section 25503.29 of the Business and Professions Code is amended to read:

25503.29. (a) Nothing in this division shall prohibit the issuance, transfer, or renewal of any retail on-sale license to any person with respect to premises that are either an integral part of,

or adjacent to, the operations of a motion picture or television production facility or an affiliated motion picture or television theme park, which premises are owned by, or operated by or on behalf of, the licensee, notwithstanding that a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, if all of the following conditions are met:

(1) No more than 10 percent of the total gross annual revenues of the motion picture or television production facility and any affiliated theme park is derived from the sale of alcoholic beverages.

(2) The retail licensee shall purchase no beer, wine, or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(3) The retail licensee serves other brands of beer, wine, and distilled spirits in addition to the brands manufactured or distributed by the beer or distilled spirits manufacturer or produced or distributed by the winegrower which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(4) No more than 15 percent of the retail licensee's monetary expenditures for alcoholic beverages for sale on its licensed premises in a calendar year shall be for products manufactured or distributed by the beer or distilled spirits manufacturer or produced or distributed by the winegrower which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(b) For purposes of this section:

(1) "Motion picture or television production facility" means an establishment where motion pictures or television programs are produced.

(2) "Motion picture or television theme park" means an establishment with not less than 25 contiguous acres, located in Los Angeles County, the predominant purpose of which is the entertainment of the public through activities related to motion

pictures and television programs, that has an annual paid attendance of at least three million people.

(3) “Adjacent to” means located on commonly owned property, or contiguous to, or in close proximity.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests must be limited to its express terms so as not to undermine the general prohibition, and intends that this section shall be construed accordingly.

SEC. 17. Section 25503.37 of the Business and Professions Code is amended to read:

25503.37. (a) Nothing in this division shall prohibit the issuance, transfer, or renewal of any retail on-sale license to any person with respect to premises that are an integral part of an interactive entertainment facility and are owned directly or indirectly, in whole or in part, by, or operated by or on behalf of, the licensee, notwithstanding that a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, if all of the following conditions are met:

(1) The principal business conducted within the facility is providing interactive entertainment, not the sale of alcoholic beverages.

(2) Other than as permitted in Sections 23358 and 23360 with respect to wine and brandy, the retail licensee shall purchase no beer, wine, or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(3) The retail licensee shall serve other brands of beer, wine, and distilled spirits in addition to the brands manufactured, produced, or distributed by any manufacturer, winegrower,

manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(4) No more than 15 percent of the retail licensee's monetary expenditures for alcoholic beverages for sale on its licensed premises in a calendar year shall be for products manufactured, produced, or distributed by any manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(b) For purposes of this section, "interactive entertainment facility" means premises which feature interactive computer and video entertainment attractions, themed merchandise, and food and beverages.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. Notwithstanding the foregoing, having considered the public welfare, the economic impact on the state, and the entirety of the circumstances involved, the Legislature further finds that the purpose and intent of the general prohibition against tied interests is not violated by granting the exception established by this section.

SEC. 18. Section 25503.42 of the Business and Professions Code is amended to read:

25503.42. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a California winegrower's agent, a holder of a distilled spirits rectifier's general license, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent may purchase indoor advertising space or time at a fully enclosed venue with box office sales and attendance by the public on a ticketed basis only, with a patronage capacity in excess of 2,000, but not more than 3,000, located in Los Angeles County within the area subject to the Los Angeles Sports and Entertainment District Specific Plan adopted

by the City of Los Angeles pursuant to ordinance number 174225, as approved on September 6, 2001, where the owner of the venue is not the on-sale retail licensee. The purchase of the indoor advertising space or time shall be subject to all of the following conditions:

(1) The indoor advertising space or time is purchased only at the venue specified in this subdivision.

(2) The purchase of indoor advertising space or time shall be conducted pursuant to a written agreement entered into by the beer manufacturer, holder of a winegrower's license, California winegrower's agent, holder of a distilled spirits rectifier's general license, distilled spirits manufacturer, or a distilled spirits manufacturer's agent and the owner of the venue described in this subdivision. A holder of a wholesale license shall not be a party to the written agreement or otherwise have any direct or indirect obligations under the agreement, including an obligation to share in the costs or contribute to the costs of the indoor advertising space or time purchased pursuant to this section.

(3) An agreement for the purchase of indoor advertising space or time pursuant to this section shall not be conditioned directly or indirectly, in any way, on the purchase, sale, or distribution of any alcoholic beverage manufactured or distributed by the advertising beer manufacturer, holder of a winegrower's license, California winegrower's agent, holder of a distilled spirits rectifier's general license, distilled spirits manufacturer, or a distilled spirits manufacturer's agent by any on-sale retail licensee.

(4) An on-sale licensee operating at a venue described in this subdivision where indoor advertising space or time is purchased shall serve other brands of beer distributed by a competing beer wholesaler in addition to the brands manufactured or marketed by the advertising beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brands produced or marketed by the advertising winegrower or California winegrower's agent, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brands manufactured or marketed by the advertising distilled spirits manufacturer, the distilled spirits manufacturer's agent, or a holder of a distilled spirits rectifier's general license.

(5) No more than 15 percent of the retail licensee's monetary expenditures for distilled spirits and wine for sale on its licensed

premises in any calendar year shall be for products manufactured, produced, or distributed by the holder of a winegrower's license, California winegrower's agent, distilled spirits manufacturer, holder of a distilled spirits rectifier's general license, or a distilled spirits manufacturer's agent that has purchased indoor advertising space.

(b) A beer manufacturer, holder of a winegrower's license, California winegrower's agent, holder of a distilled spirits rectifier's general license, distilled spirits manufacturer, or a distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than six months, or by a fine equal to the greater of an amount equal to the entire value of the advertising space or time involved in the contract or ten thousand dollars (\$10,000), or by both that imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(c) An on-sale retail licensee who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, holder of a winegrower's license, California winegrower's agent, holder of a distilled spirits rectifier's general license, distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase indoor advertising time or space pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than six months, or by a fine equal to the greater of an amount equal to the entire value of the advertising space or time involved in the contract or ten thousand dollars (\$10,000), or by both that imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) For purposes of this section, "beer manufacturer" includes a holder of a beer manufacturer's license, a holder of an out-of-state beer manufacturer's certificate, or a holder of a beer and wine importer's general license.

(e) Nothing in this section shall authorize the purchasing of indoor advertising space or time pursuant to subdivision (a) by any beer manufacturer, holder of a winegrower's license, a California winegrower's agent, a distilled spirits manufacturer, holder of a distilled spirits rectifier's general license, or a distilled

spirits manufacturer's agent directly or indirectly from any on-sale licensee.

(f) A venue owner that meets the description provided in subdivision (a) and that enters into a written agreement pursuant to this section shall obtain an annual certificate from the department. The director shall prepare, as part of the annual report required by Section 23055 for submission to the Legislature, a listing of the number of certifications made pursuant to this section or the absence of any certifications. Where there have been no certifications made pursuant to this section for two consecutive years, this information shall be included in the report.

(g) The Legislature finds that it is necessary and proper to require a separation among manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests shall be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

Approved _____, 2012

Governor